

FCC net neutrality plan faces battle with GOP (Update)

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FILE - In this Nov. 24, 2009 file photo, Federal Communications Commission Chairman Julius Genachowski speaks at the University of Arkansas Clinton School of Public Service in Little Rock, Ark. Federal regulators are moving ahead with a plan to prohibit phone and cable companies from blocking or discriminating against Internet traffic flowing over their broadband networks. Genachowski will outline his proposal for so-called "network neutrality" rules in a speech on Wednesday, Dec. 1, 2010. (AP Photo/Danny Johnston, File)

(AP) -- A proposal to prohibit broadband providers from blocking or discriminating against Internet traffic flowing over their networks has an uncertain future with just lukewarm support from large phone and cable service providers and fierce opposition from Republicans.

The fate of the "network neutrality" plan crafted by the chairman of the Federal Communications Commission, Julius Genachowski, will

ultimately lie with his two fellow Democrats on the five-member commission. For now, it's unclear how they will vote when the agency considers the proposal this month.

"Today is the beginning of an important discussion, and not the end," one of those two commissioners, Michael Copps, said in a statement Wednesday. "At issue is who will control access to the online experiences of consumers - consumers themselves or Big Phone and Big Cable gatekeepers."

The proposal has won grudging support from several big phone and cable companies, including AT&T Inc. and Comcast Corp., and at least a few public interest groups. But Republicans in Congress and at the FCC call it an effort to regulate the Internet.

Genachowski's widely anticipated plan, which he laid out in a speech Wednesday, is the product of months of negotiations to find middle ground in a policy dispute that pitted phone and cable giants against a number of Internet companies and public interest groups. Net neutrality rules were one of the Obama administration's top campaign pledges to the technology industry and have been among Genachowski's priorities since he took over the FCC more than a year ago.

Many big Internet companies, such as search leader Google Inc. and calling service Skype, insist regulations are needed to ensure broadband companies can't use their control over Internet connections to dictate where consumers can go and what they can do online.

They are particularly concerned that without strong net neutrality protections, phone and cable companies could slow or block online phone calls, Web video and other Internet services that compete with their core businesses.

Internet companies and public interest groups also want regulations to prevent broadband providers from favoring their own online traffic or traffic from business partners that can pay to take priority over other online services.

But Genachowski has faced strong resistance from phone and cable giants, which insist they need flexibility to manage network traffic so that high-bandwidth applications - such as online video - don't hog capacity and slow down their networks.

The communications companies also argue that after spending billions to upgrade their lines for broadband, they need to be able to earn a healthy return by offering premium high-speed services. They warn that burdensome regulations would discourage them from continuing to invest in their systems.

Genachowski's plan, which builds on a set of FCC principles established under the previous administration in 2005, would require that broadband providers let subscribers access all legal online content, applications and services over their wired networks. But it contains several key concessions to the phone and cable companies.

For one thing, it would give broadband providers flexibility to manage their systems to deal with problems such as network congestion and unwanted traffic including spam as long as they publicly disclose their network management practices.

The proposal would give wireless carriers even more leeway to manage data traffic, since wireless systems have more bandwidth constraints than wired networks. It would, however, prohibit wireless carriers from blocking access to any websites or competing applications such as Internet calling services on mobile devices, and would also require the carriers to disclose their network management practices.

In addition, the proposal would let broadband providers experiment with routing traffic from specialized services such as smart energy grids and home security systems over dedicated networks, as long as the practice doesn't slow down the public Internet.

The proposal drew cautious praise from AT&T, which said, "The FCC appears to be embracing a compromise solution that is sensitive to the dynamics of investment in a difficult economy and appears to avoid over-regulation."

Comcast, too, said the plan "strikes a workable balance between the needs of the marketplace and the certainty that carefully-crafted and limited rules can provide to ensure that Internet freedom and openness are preserved."

Reaction among public interest groups was more mixed. Although several said they could support the proposal, one key group, Free Press, denounced it as "fake" net neutrality that would provide less protection for wireless consumers at a time when more Americans are going online using mobile devices. Free Press also said allowing dedicated networks for certain services could lead to a two-tiered Internet with a fast lane for companies that can pay for priority and a slow lane for everyone else.

In one other key concession to the phone and cable companies, Genachowski's proposal would leave in place the FCC's current regulatory framework for broadband, which treats broadband as a lightly regulated "information service."

The agency has been trying to come up with a new framework since a federal appeals court in April ruled that the FCC had overstepped its existing authority in sanctioning Comcast for discriminating against Internet file-sharing traffic on its network. Comcast's behavior violated the very net neutrality principles that Genachowski now hopes to adopt

as formal rules.

To ensure that the commission would be on solid legal ground in adopting net neutrality rules and other broadband regulations following that decision, Genachowski had proposed redefining broadband as a telecommunications service subject to "common carrier" obligations to treat all traffic equally. But that effort triggered a fierce backlash from the phone and cable companies, as well as from many Republicans in Congress, prompting Genachowski to back down.

His new plan is based in large part on a proposal that Rep. Henry Waxman, D-Calif., the outgoing chairman of the House Commerce Committee, unsuccessfully tried to push in Congress several months ago. Waxman, too, ran into opposition from Republicans who say net neutrality rules amount to unnecessary regulation.

Republicans went on the attack again Wednesday against Genachowski's latest proposal. Robert McDowell and Meredith Attwell Baker, the two Republicans on the FCC, said they could not support the proposal. McDowell said Genachowski's effort "to adopt sweeping regulations of Internet network management" is an "ill-advised maneuver."

And two top Republicans on the House Commerce Committee, Joe Barton of Texas and Cliff Stearns of Florida, sent a letter to the FCC chairman asking him to explain where the agency gets authority to mandate net neutrality.

With Republicans set to take over the House next year, Genachowski is certain to face even more resistance in the next Congress, adding to pressure on the chairman to get his plan through the FCC this month.

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